



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

April 26, 2023

By ECF

The Honorable Paul A. Engelmayer
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *D.J.C.V., et al. v. United States of America*, No. 20 Civ. 5747 (PAE)

Dear Judge Engelmayer:

This Office represents defendant United States of America (the “Government”) in the above-referenced action brought under the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671 *et seq.* With Plaintiffs’ consent, we are writing respectfully to request a one-week extension of the deadline for the parties’ joint undisputed statement of facts for the upcoming jurisdictional briefing, from April 27, 2023, to May 4, 2023, as well as one-week extensions of all subsequent briefing deadlines. Despite the Government’s best efforts, given the complexity of this case and the importance of the contested issues, additional time is required for the Government to complete its internal reviews and approvals. In addition, because the proposed undisputed statement of facts contains confidential information, the Government needs additional time to make confidentiality designations and prepare a motion for approval to file the statement with redactions.

The parties completed jurisdictional discovery on March 29, 2023. See ECF No. 166. On March 27, 2023, the Court set a deadline of April 13, 2023, to file a joint undisputed statement of facts pertaining to the question of whether this Court has jurisdiction to hear Plaintiffs’ claims related to their first period of separation, *i.e.*, from May 2, 2018 to October 10, 2018, or whether sovereign immunity precludes those claims. See ECF No. 167. On April 10, 2023, the Government requested a two-week extension of that deadline with Plaintiff’s consent, which was granted. See Order dated April 10, 2023 (ECF No. 170). The joint statement of undisputed facts is currently due on April 27, 2023, opening jurisdictional briefs are due on May 11, 2023, and responsive briefs are due on June 2, 2023. See id.

The parties have been working diligently to meet these deadlines. On Monday evening, April 24, Plaintiffs sent the Government a draft proposed statement of undisputed facts. Over the past two days, the Government has been carefully reviewing this document and supplementing the list of facts as appropriate. Unfortunately, despite our best efforts, a brief extension is necessary to permit the Government time to complete its internal review process. Considering the importance of the issues in this case, multiple Government stakeholders require an opportunity to review the jurisdictional filings. Counsel for both parties will then need time

for continued discussions regarding any proposed changes to the statement of undisputed facts to reach agreement.

In addition, because the joint undisputed statement of facts contains information designated by the parties as confidential pursuant to the Protective Order, see ECF No. 112, careful review and discussion is underway to determine which portions of the statement need to be filed under seal and/or with redactions to protect the confidentiality of that information. For any proposed redactions, the Government will file simultaneously with the undisputed statement of facts a motion requesting approval for those redactions in accordance with the Protective Order and Court's individual rules.

In light of these circumstances, the Government respectfully requests a one-week extension of the deadline for the joint undisputed statement of facts from April 27, 2023, to May 4, 2023, and concomitant one-week extensions of the opening jurisdictional briefs from May 11, 2023, to May 18, 2023, and of the responsive briefs from June 2, 2023, to June 9, 2023. Plaintiffs consent to these requests. We thank the Court for its consideration.

Respectfully,

DAMIAN WILLIAMS
United States Attorney
Southern District of New York

By: /s/ Carly Weinreb
CARLY WEINREB
MOLLIE KORNREICH
Assistant United States Attorneys
86 Chambers Street, Third Floor
New York, New York 10007
Tel.: (212) 637-2769/3274

cc: Plaintiffs' counsel (by ECF)